

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DARRYL L. HINTON,)	
)	
Plaintiff,)	
)	
v.)	CIV-10-65-R
)	
OKLAHOMA DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	

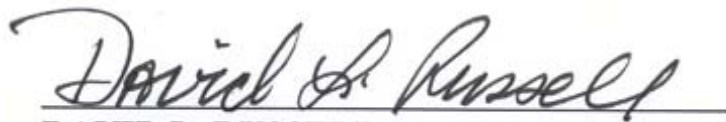
ORDER

Before the Court are the Report and Recommendation of United States Magistrate Judge Bana Roberts entered March 5, 2010 [Do. No. 15] and Plaintiff's Response to the Report and Recommendation filed March 17, 2010 [Doc. No. 17], which the Court treats as an Objection to the Report and Recommendation. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court reviews the Report and Recommendation de novo in light of Plaintiff's Objection.

Plaintiff's Objection to the Report and Recommendation is long and rambling, but Plaintiff therein merely disagrees with the findings and conclusions of the Magistrate Judge. Plaintiff advances no cogent arguments or authorities to support his contentions that the Magistrate Judge is wrong. The Court has carefully reviewed the Report and Recommendation of the Magistrate Judge and fully concurs in the findings and conclusions of the Magistrate Judge.

Therefore, in accordance with the foregoing, the Report and Recommendation is ADOPTED in its entirety and Plaintiff's 42 U.S.C. § 1983 claim for the deprivation of the opportunity to earn credits by denying him earlier reception at a DOC facility is DISMISSED with prejudice to refiling; Plaintiff's earned credits claim that could properly be brought in a habeas action is DISMISSED without prejudice; Plaintiff's claims against Defendant DOC and Defendant Jones in his official capacity are DISMISSED with prejudice as barred by the Eleventh Amendment; and Plaintiff's claim against Defendant Jones in his individual capacity is DISMISSED without prejudice for failure to state a claim on which relief can be granted. In addition, Plaintiff's motion for appointment of counsel [Doc. No. 3] is DENIED without prejudice to being reurged; Plaintiff's motion requesting the testimony of certain individuals [Doc. No. 10] is DENIED as premature; and Plaintiff's motion requesting the appointment of a special master [Doc. No. 11] is DENIED as moot. Plaintiff is GRANTED leave to amend his Complaint within twenty (20) days from the date of this Order to state a claim or claims for relief for alleged retaliatory actions by certain DOC correctional officers and to identify as Defendants those from whom he seeks relief for such actions. If Plaintiff does not so amend his Complaint within twenty (20) days, judgment of dismissal will be entered in this case.

IT IS SO ORDERED this 19th day of March, 2010.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE